

IN THE MATTER OF THE ARBITRATION

INDIANOLA MUNICIPAL : CEO No.
WATER AND ELECTRIC UTILITIES, :
vs. : AWARD
MUNICIPAL LABORER'S UNION :
LOCALE NO. 353 :

I. FACTS

On May 10, 2002, Factfinder Hugh J. Perry conducted a fact finding hearing between the parties. On May 17, 2002, Factfinder Hugh J. Perry issued his recommendations. These recommendations were adopted by Indianola Municipal Water and Electric Utilities, employer (hereinafter referred to as Municipal) as their Final Offer position for this Arbitration.

Municipal Laborer's Union Locale No. 353, (hereinafter referred to as Union), refused to accept these recommendations and requested arbitration.

An Arbitration hearing was conducted on the 25th day of June, 2002, with the parties at the City Municipal Building in Indianola, Iowa. Municipal was represented by Jerry Thompson and Jim Hanks. Union was represented by Dennis Parmenter and Steve Piper.

The hearing was electronically recorded. The parties conceded that there was no dispute as the negotiability of the below listed items which were at impasse. The parties submitted evidence, exhibits and arguments. The parties chose not to submit post hearing briefs or arguments due to the need to expedite this matter. Both parties, however, stipulated that irrespective of the issuance date of this opinion that it's effect will be retroactive to July 1, 2002.

In attendance for Municipal were Jim Hanks, Jerry Thompson, Mark Ramthun and Roxanne Hunerdosse. For the Union, Dennis Parmenter, Steve Piper, Ben King, Rodney Prickett and Rod Goodrich were present.

The case was submitted and the record was closed at approximately 4:30 p.m.

II. Impasse Items

A. Article XXXII; Pay

MUNICIPAL'S PROPOSAL:

The Board accepts the Fact Finder's recommendation and proposes that the wage rates set forth in Appendix II be increased by 3.50% across-the-board effective July 1, 2002.

UNION'S PROPOSAL:

The Union proposes that the wage rates set forth in Appendix II be increased by 4.50% across-the-board effective July 1, 2002.

B. Article XXI; Insurance Provisions

MUNICIPAL'S PROPOSAL:

The Board accepts the Fact Finder's recommendation and proposes that current contract language be maintained for the entire article.

Current contract language with regard to health and prescription drug insurance is set out below:

A. Health and Prescription Drug Insurance

The Board agrees to provide all permanent, full-time employees with a group health and a \$5.00 deductible prescription drug insurance plan containing no less benefit coverage than the one in effect on July 1, 1978. July 1, 1993 the board agreed to also provide HMO style wellness benefits. The full cost of such insurance will be the responsibility of the board. In addition, for

those employees choosing to enroll in the optional dependent coverage portions of the policy, the Board agrees to contribute up to \$320/month toward the combined cost. Beginning July 1, 2001 the dependent coverage will be capped at \$370/month.

UNION'S PROPOSAL:

The Union proposes that Article XXI (A) be amended as follows:

The Board agrees to provide all permanent, full-time employees with a group health and a \$5.00 deductible prescription drug insurance plan containing no less benefit coverage than the one in effect on July 1, 1978. July 1, 1993 the board agreed to also provide HMO style wellness benefits. The full cost of such insurance will be the responsibility of the board.

C. Article VIII; Sick Leave

MUNICIPAL'S PROPOSAL:

The Board accepts the Fact Finder's recommendations and proposes that current contract language for Article VIII be amended as follows:

B. Accrual

Permanent, full time employees will accrue sick leave at the rate of 3.07 hours per bi-weekly pay period. A total of **four hundred fifty (450)** hours can be carried forward to a new year. All leave in excess of **four hundred fifty (450)** is forfeited.

UNION'S PROPOSAL:

The Union proposes that the current contract language for Article VIII be maintained except as follows:

Permanent, full time employees will accrue sick leave at the rate of 3.07 hours per bi-weekly pay period. A total of **seven hundred sixty (760)** hours can be carried forward to a new year. All leave in excess of **seven hundred sixty (760)** is forfeited.

D. Article X; Vacation

MUNICIPAL'S PROPOSAL:

The Board accepts the Fact Finder's recommendations and proposes that current contract language for Article X be amended as follows:

Current contract language with regard to accrual is set out below:

B. Accrual

Vacation leave shall be accrued as follows:

1. With less than two (2) years of service, 3.07 hours for each biweekly pay period.
2. With two (2) but less than eight (8) years of service earn 4.0 hours for each bi-weekly pay period.
3. With eight (8) but less than fourteen (14) years of service earn 5.0 hours for each bi-weekly pay period.
4. With fourteen (14) years or more of service, 6.0 hours for each bi-weekly pay period.
5. Employees shall not be granted any vacation leave after the last day of actual work when terminating their employment.

An employee is advanced to a higher earning rate at the beginning of the first pay period following his/her second, eighth, or fourteenth anniversary date of service.

UNION'S PROPOSAL:

The Union proposes that Article X be amended as follows:

B. Accrual

Vacation leave shall be accrued as follows:

1. With less than two (2) years of service, 3.07 hours for each biweekly pay period.
2. With two (2) but less than eight (8) years of service earn 4.0 hours for each bi-weekly pay period.
3. With eight (8) but less than fourteen (14) years of service earn 5.0 hours for each biweekly pay period.
4. With fourteen (14) years or more of service, 6.0 hours for each biweekly pay period.
5. With Twenty (20) years or more of service, 7.69 hours for each biweekly pay period.
6. Employees shall not be granted any vacation leave after the last day of actual work when terminating their employment.

An employee is advanced to a higher earning rate at the beginning of the first pay period following his/her second, eighth, or fourteenth anniversary date of service.

III. Law

Iowa Code Section 20.22 (9) provides: The panel of arbitrators shall consider, in addition to any other relevant factors, the following factors:

- a. Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.

- b. Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to the factors peculiar to the area and the classifications involved.
- c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of services.
- d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

It is mandated that all issues set forth above are reviewed in light of the foregoing factors.

Iowa State Education Association v. Public Employment Relations Board.

The weight to be given to each of these factors is placed in the discretion of the arbitrator.

Moravia Community School District v. Moravia Education Association.

IV. FINDINGS OF FACT

A)Background

The City of Indianola, population 13,015, is a political subdivision of the State of Iowa located in Warren County. It was incorporated in 1864 and operates under the home rule provisions of the constitution of Iowa. The City operates under the Mayor-Council form of government with the Mayor and Council Members elected on a non-partisan basis. The City provides numerous service to citizens including public safety, public works, culture, recreation, public improvements and general administrative services.

Indianola Municipal Utilities is a separate entity to the operations of the City of Indianola as allowed by Iowa Code Section 397 and was created by a vote of the people in 1973. IMU is governed by a five-member Board of Trustees appointed by the Mayor and approved by the City Council. The IMU Board manages and controls the operations of the municipal electric, water and communication utilities and serves six-year terms.

Indianola, the county seat of Warren County, is located about twelve miles south of Des Moines, the state capital. The City covers approximately nine square miles and is surrounded by gently rolling, slightly hilly terrain, much of which is used for agriculture.

B). History

The parties settlement history has been consistent economically with the City's settlements since 1989. One exception, occurred for the 92-93 calendar year in which Union's wages deviated .25 percent from their City counterparts. All other provisions of the contracts have been essentially comparable to settlements with the City employees. In fact, a number of the negotiations have been jointly scheduled and held. The following is a synopsis of these settlements.

YRS	89-90	90-91	91-92	92-93	93-94	94-95	95-96	97-00	00-01 00-02
LANG			Dental Vision pay& remb.		HMO style benefit added		after 4yrs eligibility Deferred	N/A	Work day changes
Wages	3%	4%	5%	5.25%	2%	2%(1) 2%(2)	3.25%(1) 3.25%(2)	3.1(1) 3.0(2) 3.0(3)	3.25(1) 3.25(2)
Ins.	Increase to \$65.00	Increase to \$190.00	Increase to \$235.21	Increase to \$272.00	\$100.00 Increase to ortho	\$290.00 Per mth pres.drug up to \$30			320(1) 370(2)
Deferred Comp							\$10per mth(1) \$20 per mth(2)	+5 per mth(1) +5 per mth(2) +5per mth(3)	\$40per mth (1) \$45per mth (2)
Dental Vision		Increase to \$300						n/a(1) \$450(2) \$500(3)	\$525(1) \$575(2)
Clothing					\$50 allow				\$75 yr(1) \$100(2)
longevity	\$25 increase setup	\$25 increase setup						\$25(1) each level	N/A
Vacation							120 to 160c/o		

Historically, since 1992 , Contract settlements have increased annually an average of 3.135%.

In addition to salary increases, Union has negotiated deferred compensation packages and “longevity” components which are not factored into the salary base figures.

The employees of the Union are insured under a self insured plan which is administered by Sisco. For the recent past, the plan has been insured through the auspices of a 28 E agreement

with two (2) other communities. This agreement is being terminated due to the other communities poor risk history. SEE Municipal's Exhibits D-1 thru 8.

On April 26, 2002 contract negotiations were completed with City employees for a single year 3.25% increase in wages. Law enforcement personnel received a step increase which amounted to an additional 5% increase in addition to the 3.25% increase for a total package increase in excess of 8.00%.

C. Comparability Groups

Municipal utilized two sets of communities to provide a comparability group. Those groups were classified as Water Department Staff and Electric Department Staff.

Municipal selected the following communities as comparable for the Water Department with the various breakdown by population, number of employees, number of customers and plant grade.

**Water Department
Comparable
2001-02**

	Population	# of Employees	# of Customers	Plant Grade
Ankeny	27,117	6	9587	0
Atlantic	7,257	4	3261	2
Boone	17,803	8	5200	4
Carlisle	3,497	2	1401	2
Coralville	15,123	4	5208	2
Decorah	8,172	4	1510	2
Denison	7,339	7	2973	2
Fort Dodge	25,136	12	9996	3
Harlan	5,282	4	2400	3
Indianola	13,015	4	4204	4
Norwalk	6,884	2	2322	0
Average	12,420	5	4369	2
Indianola	13,015	4	4204	4
Difference	+595	-1	-165	+2
%Difference	4.79%	-20.00%	-3.78%	100.00%

Municipal selected the following communities as comparable for the Electric Department subcategorizing by population, number of employees, number of customers.

**Electric Department
Comparable
2001-02**

	Population	# of Employees	# of Customers
Atlantic	7,257	21	4467
Carlisle	3,497	4	1489
Denison	7,339	8	3303
Harlan	5,282	4	2400
Indianola	13,015	15	5832
Muscatine	22,697	35	10810
Spencer	11,317	35	5700
Waverly	8,768	19	4174
Average	9,897	17	4772
Indianola	13,015	15	5832
Difference	+3118	-2	+1060
%Difference	31.50%	-11.76%	22.21%

Municipal advanced the assertion that a larger number of communities provided a better comparability group to use in determining the reasonableness of each parties contentions. No analysis was provided as to whether these communities employees were covered by a collective bargaining agreement.

It was Municipals position that this fact was irrelevant under Iowa law in utilizing them as viable comparables.

Conversely, Union utilized the Communities of Cedar Falls, Muscatine, Pella, Waverly and Mt. Pleasant as their comparable communities. Two of these communities have a greater population base than Indianola while three had a smaller population. All of the communities provided both water and electrical utilities to their population similar to Indianola. All of the communities are covered by a collective bargaining unit contracts.

Municipal's exhibits F-5 thru F-16 provides an analysis of salary comparisons for each of the classes of employees in relation to their comparability groups.

An analysis of across the board increases for each department reflects that the Municipal's offer exceeds the norm.

Excluded from the calculations comprising both parties salary comparisons are longevity pay and Deferred compensation pay.

Also, noteworthy is the fact, with the exception of less than a handful of employees the composition of the Indianola Municipal Utilities workforce enjoys top pay grade status within their respective job classifications.

Based on Municipal's "Board" Exhibits F-17 thru 22 it is clear that the longevity and deferred compensation programs are some of the best in the industry.

Union's analysis of pay increases for it's comparable communities, average 3.32% to 3.49%. This discrepancy is the result of Mt. Pleasant's pay increase range from 3% to 4.25%.

The Union's analysis of salaries which are indicative of the highest pay grades reflect that Indianola Municipal Utilities employees are either close to being the lowest salaries or in contention therefor with one or two of their comparable communities.

Only, Meter Reader II, Senior and Water Operator salaries compare favorably as to Union's comparable communities.

These analyses fail to factor in either longevity pay or the deferred compensation plan.

In respect to Insurance, the dispute is not how much the Municipal pays but rather the Union's demand to change the language from that of a dollar amount to requiring the contract to provide that Municipal to pay 100% of this cost.

Municipal has provided detailed financial analysis to support its assertion that they are paying in excess of the norms for their comparability groups for Medical and Dental single and family coverage. SEE. Board Exhibits G-4 and 5.

Conversely, Union's exhibit number 5 reflects payment of medical insurance by their comparability groups. With the exception of Waverly electric employees, no other community has language in which the community pays 100% of single and family health insurance.

The Municipal exhibits H-4 and H-5 provides a comparability analysis as to how its employees compare for Sick Leave Accrual. Currently, Indianola rates dead last. In fact two of the communities it asserts are comparable have "No Limits" on sick leave accrual. In the Municipal's averaging calculation they have dropped these communities from their calculations.

The Union's data premised on their comparability group provides a similar analysis. Indianola's sick Leave accruals lags significantly behind its counterparts.

Municipal's analysis of vacation rates is contained within its exhibits I-4 thru 7. The specific breakdown for Water Departments and Electric Departments are contained on exhibits I-5 and 7. These provide a spectrum of one, ten and twenty year increments. These perspectives reveal that vacation benefits far exceed the norms until 20 years. Only after 20 years do Indianola's benefits lag behind their counterparts.

Happenstance has it that the Union's analysis is focused solely at the 20 year end of the spectrum with its comparability group. The variance is graphed in Union Exhibit #8. Union's

Exhibit #6 breaks down in detail the nuances of each vacation plan.

Municipal's comparable likewise reflect that at the twenty year period their constituency lags behind.

III. Ability to Pay

The parties concur that ability to pay is not an issue in this dispute. For purposes of this award it is assumed that ability to pay is not in controversy.

IV. Findings and Conclusions

There are 4 impasse items which will be discussed. Each will be individually discussed in relation to Chapter 20.22 (9). All due deference will be afforded to the esteemed Hugh J. Perry's recommendations as contained in his May 17, 2002 Fact Finder report which was adopted by Municipal as its final offer.

It is clear that the parties have selected different comparability groups. Municipal asserts that because it's selected a wider range of communities its grouping is more appropriate. Union asserts that even though its group is smaller, the fact that all of its communities have both electric and water services and are covered by a collective bargaining unit recognized by Perb serve as a more reasonable comparable grouping. This is one of those cases that irrespective of which group is utilized the results are the same.

This assertion is borne out with regard to wages. According to Municipal's data, current wages for Union employees are not out of line within their counterparts. When one factors in incentive pay and deferred compensation, the same is true for the Union's analysis. Moreover, the proposed 3.50 increase offered by Municipal exceeds the pay increase of comparables Union has provided in exhibit #11. In fact, the only community in Union comparables which exceeds a 3.5 increase is Pella, Water Department.

Historically, this offer exceeds the settlement negotiations the parties have enjoyed over the last decade.

Furthermore, assuming arguendo a correlation between Indianola's other organized association, the City, save for law enforcement's settlement, this offer exceeds the same.

It is noteworthy that Indianola's law enforcement staff was being depleted by salaries in comparable communities. No assertion was being made here. In fact, Municipal's exhibits F-4 bears out that there is no retention problem. A clear majority of employees save for 3 are grade 4 or above.

It is therefore the undersigned opinion that the Municipal's offer of an across the board pay increase of 3.5% is the most reasonable and should be and is hereby awarded.

The next impasse item of insurance coverage is more than what it may first appear. At first blush, the Union's assertion that since the Municipal has always funded full coverage insurance the semantics in changing to require it to provide the same from a dollar amount is unimportant. I disagree. Whether at the table by agreement or by arbitrator's pen such a variation may cause an employer to pay costs in the future never contemplated. SEE; Burlington Community School District v. Burlington Community School District Education Association. A full discussion of the issues involved in this minor language change are discussed therein.

If the Union decides to acquire this language change they will need to acquire the same at the bargaining table and not by this arbitrator's pen. The Union furthermore has not supported this demand by it's comparability group. In fact to the contrary is true.

It is therefore the undersigned opinion that the Municipal's proposal as stated above for health insurance coverage is the most reasonable and should be and is hereby awarded.

The next impasse item involves accrual of sick leave. Municipal by admission of exhibits H-4 and 5 can't support their current position. The average accrual period is over 700 hours. This is after one excludes the two Municipal's community comparables which have been excluded that have no limitation.

The Union requests accrual of sick leave up to seven hundred and sixty hours per year, or 3.07 hours per biweekly period. Only Pella Water by their comparability group would provide a lower hourly accrual.

Municipal asserts that because it provides short term and long term disability insurance this deviance is warranted. It's position was persuasive to Fact Finder Perry.

An analysis of disability insurance by Municipal's Water Departments comparables provides that 40 per cent of the comparable communities provide short term coverage while 60 per cent provides long term coverage. An analysis of disability insurance by Municipal is Electric Departments comparables provide that 57 per cent of the comparable communities provide short term coverage while 100 per cent provides long term coverage.

It is significant to this author, irrespective of assertions to the contrary, that these percentages are of communities providing these benefits which may not even be covered by a collective bargaining agreement contract.

The undersigned does give deference to the fact finders conclusions and recommendations. The undersigned will not rubber-stamp the same when there is clear and convincing evidence that he or she has erred. This is the case here.

Union's request for accrual of sick leave up to 760 hours based on both comparability groups is the most reasonable position. This is further supported by the concept that both long and short term disability insurance will offset this expense to Municipal.

This conclusion may be different where the parties have a buy out provision for unused sick leave. None exists in this contract.

It is therefore the undersigned's opinion that the Union's proposal to increase accrued sick leave to 760 hours is the most reasonable and should be and is hereby awarded.

Last but not least is Union's request to create a new bracket for those employees of 20 or more years of experience to a 5 week period from 4 week vacation. The support of this proposition is inconclusive.

According to both parties comparability data employees at the 20 year plus range are below the norm as to their counterparts. However, according to data provided by Municipal's comparability groups, employees who have 1, 5 and 10 years of work history enjoy greater vacation benefits than their counterparts. The undersigned is mindful of the spectrum of employees years of service. However, this is not an item which this author believes is supported sufficiently by data to warrant modification by arbitration.

The parties have negotiated a vacation schedule which clearly favors employees with less service. I am unable to reverse this pattern solely premised on the fact that these employees have now reached the twilight of their employment career. These are changes according to this author that should be made at the negotiation table. It is understood, these changes or modifications may be at the expense of the more lucrative benefits of this nature offered to the less senior cohorts.

Conclusions

1) Municipal's final offers as to wage increase, health insurance language and vacation language are the most reasonable and are awarded.

2) Union's final offer as to sick leave accrual is the most reasonable and is awarded.

Respectfully Submitted

Sandy Law Firm, P.C.

By

John L. Sandy

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CERTIFICATE OF SERVICE

I certify that on the 1st day of July, 2002 I served the foregoing Arbitrator's Decision upon each of the parties to this matter by (____ personally delivering) (☒ mailing) a copy to them at their respective addresses as shown below:

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I further certify that on the 1st day of July, 2002, I will submit this Decision for filing by (____ personally delivering) (☒ mailing) it to the Iowa Public Employment Relations Board, 514 East Locust, Suite 202, Des Moines, IA 50309.



John L. Sandy, Arbitrator